

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 CAPITOL MALL, 17TH FLOOR
SACRAMENTO, CALIFORNIA 95814

FILE NO. RH 04 03 7941

JULY 18, 2005

INITIAL STATEMENT OF REASONS
REGARDING
PRESCRIBED METHOD OF FILING NOTICE OF APPOINTMENT OF AGENTS AND
NOTICE OF TERMINATION OF APPOINTMENT OF AGENTS

INTRODUCTION

Pursuant to the authority granted under the provisions of California Government Code (CGC) section 11346.1(b) and California Insurance Code (CIC) section 1707, California Insurance Commissioner John Garamendi ("Commissioner") proposes the adoption of Article 12 of Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR).

CIC section 1707 establishes the requirement that a notice of appointment of agents or notice of termination of appointment of agents shall be filed on forms prescribed by the Commissioner, within 10 days of appointment or termination, except as otherwise provided in section 1704.5.

However, neither the statute nor existing regulations prescribe the *method* of filing of said notices of appointment of agents and notices of termination of appointment of agents.

Commissioner Garamendi proposes to adopt regulations that will set forth the specific method (electronic filing, as opposed to paper filing) that insurance companies shall use to file notices of appointment of agents and notices of termination of appointment of agents with the Department of Insurance ("Department").

Commissioner Garamendi provides this initial statement of reasons setting forth, *inter alia*, the specific purpose of the proposed regulation and the rationale for the adoption of this proposed regulation.

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE FOR ADOPTION

The specific purpose of this regulation is to require *all* insurance companies to file electronically, which will promote the Department's efficiency and economy in processing notices of appointment of agents and notices of termination of appointment of agents.

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CIC section 1707 establishes that notices of appointment of agents or notices of termination of appointment of agents shall be filed on forms prescribed by the Commissioner, except as otherwise provided in section 1704.5. Currently, the majority of insurance companies file notices of appointment of agents and notices of termination of appointment of agents electronically; however there remains a small percentage of companies that continue to file paper notices of appointment of agents and notices of termination of appointment of agents instead of filing all such notices electronically.

Electronic submissions will enhance the Department's ability to process these notices and save operating costs because it eliminates excessive paper handling. Electronic filing of notices of appointment of agents and notices of termination of appointment of agents will allow for faster and more accurate processing of these notices compared to the time required to process paper filings.

Proposed Article 12 requires that all insurance companies submit notices of appointment of agents and notices of termination of appointment of agents electronically for the following licensees: Fire & Casualty, Life Agent, Travel Agent, Disability Only, Part Time Fraternal, Motor Club, Personal Lines, and Home Protections. This regulation specifies further that the electronic submission of filings into the Department's Insurance Producer Licensing Database shall be done through entities approved by the California Department of Insurance, such as, but not limited to, the National Insurance Producer Registry (NIPR).

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is as follows:

Proposed section 2194.41: Authority and Purpose

This section sets forth the authority and purpose of proposed Article 12. Under CIC section 1707, each notice of appointment or notice of termination of appointment shall be filed on forms prescribed by the commissioner within 10 days of appointment or termination, except as otherwise provided in section 1704.5. The specific purpose of this section is to implement, interpret and make specific the provisions of CIC section 1707, by setting forth the purpose of this regulation.

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Proposed section 2194.42: Prescribed Method of Electronic Filing

The purpose of this section is to set forth that electronic filing is mandatory for certain licensees and the method to be used for electronic filing of notices. This section specifies that all insurance companies must submit notices of appointment of agents and notices of termination of appointment of agents electronically to the Department's database for the following licensees: Fire & Casualty, Life Agent, Travel Agent, Disability Only, Part Time Fraternal, Motor Club, Personal Lines, and Home Protections.

This proposed section also specifies that the method of electronic submission into the department's Insurance Producer Licensing Database shall be done through the National Insurance Producer Registry (NIPR) and its authorized business partners or any other vendors approved by the California Department of Insurance.

Finally, this proposed section provides that the Department reserves the right to develop its own direct method of electronic submission.

Proposed section 2194.43

To accommodate situations in which an agent is terminated for cause; the needs of smaller agencies and those licensees not covered, by definition, this proposed section sets forth three alternatives or exceptions to the prescribed electronic method of filing. These alternatives or exceptions include (a) situations wherein the agent is "terminated for cause"; (b) companies that annually appoint and terminate 25 or fewer agents in the aggregate, and (c) licensees not covered under proposed section 2194.42.

This proposed section specifies that when an agent is "terminated for cause" that rather than submit an electronic notice of termination pursuant to the regulation, a carrier must instead submit, in writing, an "Action Notice of Termination of Company Appointment" form (Form 447-54T), along with an explanation of the "for cause termination".

This proposed section also specifies that companies that annually appoint and terminate, in the aggregate, 25 or fewer agents in the covered lines of business may be excepted from the regulation upon written request. This proposed section provides that in order to be excepted from the provisions of this regulations, companies must file a request for exception to the requirement on an Action Notice of Appointment form (Form 447-54A) or Action Notice of Termination form (Form 447-54T) along with the applicable fees.

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Finally, this proposed section specifies that licensees not writing in the covered lines of business as are set forth in proposed section 2194.42 are excepted from this regulation and that in the case of those non-covered licensees, carriers should submit paper Action Notice of Appointment forms (Form 447-54A) or Action Notice of Termination forms (Form 447-54T) along with the applicable fees.

RATIONALE FOR NECESSITY

The proposed new regulation would improve the agency's efficiency and save operating costs. Notices filed electronically can be processed faster and more accurately than paper submissions. Currently, most insurance companies file these forms electronically, and this regulation proposes to mandate electronic submissions for all covered licensees and sets forth a prescribed uniform method of filing.

IDENTIFICATION OF STUDIES

The Commissioner has not relied on any technical, theoretical, or empirical study or report, or similar document, proposing the adoption of these regulations.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of this regulation as proposed requires insurance companies to file certain notices with the Department electronically (using a computerized medium).

ALTERNATIVES

This regulation is proposed to implement, interpret, and make more specific the provisions of section 1707. No alternatives have been suggested that would be as efficient and effective in addressing the identified problem.